

**CHAPTER NO. 439**

**HOUSE BILL NO. 2186**

**By Representative McKee**

**Substituted for: Senate Bill No. 2150**

**By Senators Atchley, Ketron**

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 36, Part 1, relative to nonforfeiture requirements for individual deferred annuities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-36-103, is amended by deleting subsection (a) in its entirety, and by substituting instead the following language:

(a) In the case of contracts issued on or after the operative date of this act no contract of annuity, except as stated in § 56-36-102, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in §§ 56-36-105 - 56-36-108 and 56-36-110;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in §§ 56-36-105, 56-36-106, 56-36-108, and 56-36-110. The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six (6) months after demand therefor with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

SECTION 2. Tennessee Code Annotated, Section 56-36-104, is amended by designating the present language as subsection (a) and by adding the following language at the beginning of the subsection:

Prior to July 1, 2006, a company may elect to comply with the provisions of this subsection or the provisions of subsection (b). On and after July 1, 2006, all companies shall comply with the provisions of subsection (b).

SECTION 3. Tennessee Code Annotated, Section 56-36-104, is further amended by adding the following language as a new subsection (b):

(b) The minimum values as specified in this chapter in §§ 56-36-105 – 56-36-108 and 56-36-110 of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subsection:

(1)

(A) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in subdivision (2) of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of items (i) through (iv) below:

(i) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subdivision (2);

(ii) An annual contract charge of fifty dollars (\$50), accumulated at rates of interest as indicated in subdivision (2);

(iii) Any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in subdivision (2); and

(iv) The amount of any indebtedness to the company on the contract, including interest due and accrued;

(B) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of the gross considerations credited to the contract during that contract year.

(2) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(A) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest 1/20 of one percent (.05%), specified in the contract no longer than fifteen (15) months prior

to the contract issue date or redetermination date under subdivision (2)(D);

(B) Reduced by one hundred twenty-five (125) basis points;

(C) Where the resulting interest rate is not less than one percent (1%); and

(D) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(3) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subdivision(2)(B) by up to an additional one hundred (100) basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(4) The commissioner may adopt rules and regulations, in accordance with the uniform administrative procedures act, title 4, chapter 5, to implement the provisions of subdivision (3) and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

SECTION 4. Tennessee Code Annotated, Title 56, Chapter 36, Part 1, is amended by adding the following language as a new section as designated:

56-36-113. The commissioner may adopt rules and regulations, in accordance with the uniform administrative procedures act, title 4, chapter 5, to implement the provisions of this chapter.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: February 25, 2004



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 12<sup>th</sup> day of March 2004



PHIL BREDESEN, GOVERNOR